

We truly are an overregulated society. I have told this story many times, people that I know back in my State of Oklahoma. A guy name Keith Carter, in Skiatook, OK, invented a spray that you put on horses, and apparently it works. Whatever it does, it must work, because he had four employees, and a couple years ago they moved to a larger place down the street from his house, still in Skiatook, OK. He called me up, 4 days before Christmas—this was 2 years ago—and he said, “Congressman INHOFE”—at that time I was in the House of Representatives—he said, “The EPA came along and put me out of business.” I said, “What did you do wrong?”

“When I moved down the street 2 years ago, I forgot to notify Washington and the EPA that I had moved.” I said, “You mean they did not know where you were?” He said, “I notified the regional office, but they did not tell Washington.”

So we got it taken care of. He called back a little later, and he said, “I appreciate all you did for me, and you got me back in business, but now I have another problem. I have \$25,000 worth of bottled spray produced during the 2 weeks I was revoked that they say I cannot use.”

This is the type of overregulation we have in society today. I think the re-regulation bill is going to come out. I think the people of America will have to speak up again and let them know, let Members know, that they are still interested in reducing the abusive role of government as we have come to know it today.

Mr. President, term limits is a very real thing today, and just because we made some major turnovers does not mean that we should not continue the good thing that happened in 1994. A lot of people say, “Well, you cannot do that; you are taking away my constitutional right to vote for someone as I see fit.” It was not very long ago when we had to impose term limits on the President of the United States. And it has worked very well since then.

We could use the same arguments. Well, you have taken away my right to vote for someone who has already served two complete terms. Almost every State in the Union right now has term limits on its Governors. The vast majority of the States that have the petition process, the initiative process, were able to either vote in or through an initiative and impose term limits on themselves. However, the U.S. Supreme Court came along and said, “No, you cannot do that.” So it can only be done, to be effective and endure the future generations, is to do it with the constitutional amendment.

I intend to continue in that fight. I believe that the message is loud and clear. There are a lot of messages that came out of the elections.

I mentioned that the majority of people who had been operating without term limits and have been here since they graduated from college and did

not have experience in the real world, that they honestly did not believe that punishment was a deterrent to crime.

Senator RICHARD SHELBY, from Alabama, and I introduced a bill that would change our prison system and put the work requirements back in. People say, “How cruel can you be, because these people are poor products of society, and it is not their fault they did something that is wrong. You should not be punishing them.”

There is an article, Mr. President, you ought to read. It was in last November’s Readers Digest. It says, “Why Must Our Prisons Be Resorts?” And it talks about the new golf courses that they are putting in next to the polo field, or next to the boccie courts. Whatever that is. And how we are going to have to take care of—they do not even call them prisoners anymore in some prisons, they call them clients, because they do not want to offend them.

I may be old fashioned in my thinking. I think punishment has deterred crime. I think history showed that. When we passed the soft-on-crime bill, the omnibus crime bill of 1994, that was the midnight basketball and dancing lessons and all that, the American people were offended by that and those individuals who voted for that bill, most of them, were voted out of office in November 1994. It was just another one of those areas where, if you had been inside the beltway listening to people around here, you forget what the real people at home are thinking. Because it is a different mentality here in Washington, DC.

I do not think that Oklahoma is unique in that respect. I will share an experience that will offend, I think, some of the people here. But it is something that happened to me.

The State of Oklahoma is, by registration, a very strong Democrat State. But the Democrats in the State of Oklahoma are very conservative. They are unlike the Democrats that we have here in Washington. I had an experience down in McCurtain County. McCurtain County in Oklahoma, Mr. President, is what we call severe little Dixie. There are not any Republicans. They are all Democrats. I remember being down there in the campaign and my opponent was an incumbent, the same as I was, an incumbent from the House, both running for the Senate, so we each had records.

I remember someone standing up in a meeting of about 45 people in McCurtain County. I was the only Republican who was in that room that day, including a New York Times reporter who was following me around. Someone stood up in far southeastern Oklahoma, where there are not any Republicans, and said “Inhofe, you are going to be the first Republican to carry McCurtain County since statehood, the State of Oklahoma statehood in 1907.” I said, “Why is that?” He said, “Because of the three G’s.” He said, “God, gays, and guns.”

Let us look at what they were really saying. He said school prayer was an issue in southeastern Oklahoma—school prayer, gays in the military was an issue, and gun control was an issue. During deer season, they closed schools. These are real people. These are not the kind of people you find around the beltway. And this gets right back to the whole idea of term limits.

I really, honestly, believe in my heart that we would not have a lot of the problems that we have had since the 1960’s about the role of Government in our lives, we would not have the huge deficits we find ourselves with—if we do not change our spending behavior, a person who is born today is going to have to spend 82 percent of his or her lifetime income just to service Government. And this is what we are going to change.

So I believe the term limit debate is going to be revived again, even if I am the one who has to revive it, because I think the vast majority of Americans honestly and sincerely in their hearts believe that those of us in Congress should someday have to go out and make a living under the laws we passed. The only way to ensure that is if we have limitation of terms.

Early in this country’s history it was not necessary. We had people who came in and they could only afford to be here for a short period of time. They did their patriotic duty and they went back and lived with the laws they passed. I think that is exactly what is coming back to America and it is going to serve my grandchildren and all of America very well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I ask unanimous consent I be allowed to proceed for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE REGULATORY REFORM BILL

Mr. JOHNSTON. Mr. President, I want to give my colleagues a report on the regulatory reform bill as I see it. As of last night, those of us who were in favor of regulatory reform had presented a list of four amendments which we were willing to concede to. In my judgment, they went further than I would have liked to have gone. One dealt with that issue of least cost. In the current Dole-Johnston amendment, least cost is not the test. We have made that repeatedly clear. However, we have offered an alternative that is

framed in terms of the language that the opponents of regulatory reform wished, and we have heard nothing back from that, at this point, together with three other amendments we were willing to go along with.

As I understand it, those who are opposed to the Dole-Johnston proposal are urging people not to vote for cloture on the grounds that there is this great negotiation going on that is getting close. If there is such a negotiation going on, I am not aware of it. We are waiting for an answer and not receiving one.

I do not know whether the majority leader is going to call for another cloture vote or not. At this point, I must say, it appears we do not have the votes for cloture, which means the regulatory reform bill will go down to defeat. The majority leader, of course, is in charge of the schedule, but I am advised that is a busy schedule.

Unfortunately, there are members of the other party who would like the issue of regulatory reform not to pass, to have the issue. There are Members on this side of the aisle, I think, who would like the issue for the opposite reason. And many of us are in the middle, who fervently believe we ought to have regulatory reform, that it is one of the most wasteful operations of Government that we now have, that we have an opportunity, really to do something important, something that will really make sense out of the regulatory problems we have today.

I very strongly believe that. I have very strongly believed in regulatory reform for 2 years now, since the Senate initially passed, last year, by a vote of 94 to 4, a risk-assessment proposal. Now, when we are on the threshold of being able to get it done, unfortunately it appears it is going down the drain, mainly by arguments against the Dole-Johnston bill which are simply not correct; some of which, by the administration, are made disingenuously, in my view.

To say the test is least-cost under the Dole-Johnston bill is just not true. It is there in very plain language, very plain language. Nevertheless, I think we will probably, if I read the majority leader correctly, have another cloture vote; and failing in that, which I guess we will, it will be farewell to regulatory reform. That is a real shame. And I do not understand the opposition to this bill.

If there are amendments that need to be made, let us know about them. There is nothing, nothing, zero, going on, in terms of trying to resolve this question. It looks as if it is a lost cause, and I regret that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I want to take this occasion to commend the Senator from Louisiana for his leadership on this issue, and assure him that this is one Senator who agrees. I do not want it held as an issue. I want it as an accomplishment.

I think we would all be better off if we went home and campaigned on our accomplishments than on our rhetoric and on our demagoguery on these issues.

I know the Senator from Louisiana has labored long and hard on this issue. He has shown his usual patience. I served as a member of a committee which he chaired and discovered that patience in a variety of circumstances.

I am grateful to him for his statement here today, and want to align myself with his plea, for whatever we will do on my side of the aisle, to say let us not hold this as an issue, let us do the very best we can to bring it to a head, get cloture and get this done.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from North Dakota. Mr. DORGAN. Mr. President, I was interested. As the Senator from Louisiana began speaking he talked about speaking on behalf of those who want regulatory reform. I do want to say I think the Senator from Louisiana is one of the best Members of the U.S. Senate, is one of the most thoughtful, bright, and interesting Members of the U.S. Senate.

I will say to him, however, that I do not think there is a division in this body between those who want regulatory reform and those who do not. I am someone who supports the Glenn-Chafee substitute. It is in my judgment a legitimate, serious substitute that will in and of itself create substantial regulatory reform.

So I really do not think this is a question of a group of people who want things just the way they are, and who love the status quo with all current regulations. It is not the case. Most Members of the Senate, I believe, feel very strongly that there are some Government regulations that are silly, that are intrusive, that are totally inappropriate, and that simply overwhelm for no good cause a lot of Americans who are trying to run small businesses, or big business for that matter. We want to change that.

But we also care very much about important, good regulations that work. I know the Senator from Louisiana does as well. He has heard me describe before the circumstances with respect to the Clean Air Act. The Senator was describing the other day circumstances in which I believe it was EPA was describing the kind of approaches here on regulations as a result of popular public opinion or public opinion polls. I understood what the Senator was saying.

On the other hand, in the 1970's America woke up and decided as a result of a new consciousness with Earth Day and other things that we cannot keep spoiling the nest we are living in, that we have to stop polluting the air and start cleaning the air, that we have to stop polluting the water and start cleaning our water. If that was the public will, I applaud EPA, and others, and applaud the Congress for

saying this is the public will, to let us decide to hitch up and do it.

Twenty years later, as the Senator from Louisiana well knows, we now use twice as much energy in America and have cleaner air. Is it perfect air? No. We still have some air quality problems. But instead of the doomsday scenario that a lot of folks felt we were heading toward with continually degrading our airshed, we have over the last 20 years, even as we have substantially increased our use of energy, cleaned America's air. We have cleaner air and less smog. I happen to feel very proud of that. I think that is an enormous success story.

Not many people even know it. No one will talk about it, because success does not sell. Failure and scandal sells. Success does not. We have fewer problems with acid rain. We have cleaner rivers, cleaner streams and cleaner lakes in America now than we had 20 years ago. That is quite a remarkable accomplishment and achievement once our country decided we were going to do things the right way. I am enormously proud of that.

I just do not think under any condition we want to retreat on those fundamental principles. We are fighting for clean air, we are fighting for clean water, and we are fighting to maintain a safe food supply. All of those things are important.

I join the Senator in his concern about trying to streamline regulations with regulatory reform. The desire for regulatory reform, I think, is shared by virtually every Member of this body. The division at the moment is a division between those of us who want to do this in the manner described in the Glenn-Chafee substitute versus those who want to do it in the manner described in the Dole-Johnston substitute.

I just took the floor in order to say that I think there is a uniform desire here to do the right thing with respect to regulations. We do not in any event want to roll back the regulations that have allowed us to achieve significant victories in the last 20 years with respect to clean air, clean water, and safe food. That is what I think the real debate is about.

So I appreciate the thoughts of the Senator from Louisiana. I wanted to rise to make that point.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I will stand corrected—this is not against those who are against the bill as opposed to those who are for it. I think the Senator from North Dakota correctly states that it is those who are for the Glenn-Chafee bill and those who are for Dole-Johnston bill. The difference is that many of us regard the Glenn-Chafee bill as being a permissive bill; that is, it permits the agencies to engage in regulatory reform but it does not require them to do so. Whereas,

Dole-Johnston does. We are operating under an Executive order now that on its face requires it, but actually does not require it. And if we are talking about a permissive kind of bill, in my view, that is what we have now.

To be sure, it has resulted in great advances forward. Look, all of the laws for which we voted—I voted for all of these, the Clean Air Act, the Clean Water Act, et cetera—have made some great advances. And if you want to keep the present status quo, I would say the thing to do is vote for Glenn-Chafee. Glenn-Chafee will not pass, in my view. I just think it is unfortunate that this is being painted as an ongoing negotiation.

Mr. KERRY. Will my friend yield?

Mr. JOHNSTON. Yes.

Mr. KERRY. It is the last comment previously made on the floor that helped bring me to the floor, and I thank my friend from North Dakota for already responding to some degree, and I know the Senator from Ohio is now here. Let me just respond to that.

We are perfectly prepared to sit down, and we have been on an ongoing basis. Yesterday afternoon, I believe, I got in written form a response to the most recent suggestions that we made with respect to the bill. The principal sponsor of the bill is on the floor now. I know he will say that he is not stuck in the mud or cement or anything with respect to the fact that the Glenn-Chafee bill in and of itself, in its entirety, is somehow presumed to be the only vehicle to pass. We understand that full well. Nor are we in a position that is embracing a no-bill strategy. We have a lot of folks on our side of the aisle, myself included, who would like to vote for regulatory reform, number one, and who are prepared—in fact, more than prepared—we are already agreed in our negotiations to arrive at new decisional criteria.

There are some outside who do not want that. But we have agreed that cost evaluation and risk assessment are appropriate things in a modern society to do to make a judgment about whether or not you are spending more money than the benefit you are getting.

The problems that remain, however, are significant. When you have 48 Senators, obviously going to diminish by 1, 2, 3—we all understand how it works around here. But when you have a sufficient number of Senators still saying this bill is a problem, and much more importantly, I say to my friend, when you have the President of the United States and his full Cabinet saying in its current form this bill will be vetoed, then there ought to be a legitimate effort here by all of us to legislate in a way that precludes that veto or try to reach a reasonableness where the best effort has been made to do so.

With all due respect, we still have a problem where we are still fighting and the Senator knows what it is about. It is about these 88 different standards, new standards for litigation, and the fact we do not feel we have sufficiently made this a bill which will, indeed, be

reform. Our fear is that this bill in its current form is going to result in the agency being so swamped with petitions and having to respond to so much judicial review that they simply cannot do what they were intended to do, which is protect the health, the safety, and the environmental concerns of Americans.

Now, I do not know how many times we have to say it. There are stupid agency rules in existence. I am confident that people of good faith can sit down and identify them. There are excesses where agencies have even reached beyond the stated intent of a statute.

That is not what we are here to do. I am confident if we sit down further and continue to be able to try to reach somewhere between what Senator GLENN and Senator CHAFEES have put forward and what the Dole-Johnston bill represents, there ought to be a meeting of the minds.

Mr. JOHNSTON. If the Senator will yield, we submitted four major proposals and have asked can we clear those. Every time there is an argument—yesterday we had an argument about whether this is least cost. My friend from Michigan said no because there is this word “nonquantifiable.” I said, “I have an amendment here to take it out. Would you permit me to do so?”

“Not now.”

Then there were other speeches back to back. We could not take it out. Now, we offered four amendments yesterday which I thought were agreeable amendments. Can we at least have agreement to take those out, to try to improve the bill on matters that we agree on, does not seem to be possible.

Mr. KERRY. Let me say to my friend—

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the time.

Mr. GLENN. Will the Senator yield?

Mr. JOHNSTON. Mr. President, I will yield for a question.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. I was surprised in my office to hear practically the death knell being rung over our efforts to get regulatory reform. The Senator is aware that he sent us a fax last night, and we are working out the answer to that. Meanwhile, each one of the cloture votes that we have had have allowed us to make some progress. We have made a lot of progress on this regulatory reform bill. They have offered to substitute “least cost” for “greater net benefits”—this is an improvement and if we can write it up properly, we may be able to agree to their proposal. “Net benefits”, as I understand it, is in the Executive order language. They want to use that language in the decisional criteria, and we are willing to consider their proposals. We are making progress.

We have also made progress on litigation opportunities and judicial review, as I understand it. I believe we agree that the final rule will be what is challengeable. We do still have a prob-

lem with the many new petition process. We are working on that. I think the Senator from Louisiana agreed a couple days ago at least on reasonable alternatives. Where it says “reasonable alternatives,” I believe his suggestion is to limit those alternatives that the agency has to consider to three or four. This is a major issue. We have not all agreed on that yet, but I think we can make major steps forward.

Now, on automatic repeal of a schedule for some rules, I think we are pretty close on that. We still do not agree on a third area, though—on special interests, such as including the toxics release inventory in this bill.

That is a major concern. We have made substantial progress in a number of areas here, and we have three or four more to go. But the Senator from Louisiana states that we have not gotten back with an answer yet to a proposal last evening. I am sure the Senator from Louisiana will agree this is very complex legislation. We have been working on it all morning and are going to meet on it this afternoon.

So I hope we still continue in good-faith negotiations. I think we have made a lot of progress, and this is probably as complex a bill and as far-reaching for every man, woman and child in this country as anything we will consider in this Congress.

I think we are making progress here. We are about to go to a meeting where we are going to talk about some of these very complex issues. We are supposed to meet at 2:15. And we are negotiating in good faith. I certainly do not read into our processes here anything except good faith on both sides.

So I was a little bit surprised to hear the doom and gloom that I heard in my office a little while ago, and that is the reason I came over to the floor. I think we are making good progress on this. There are a number of areas that I think we can agree on, and I hope we can have more before the afternoon is over.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I wish I could share the optimism of my friend from Ohio. He and the Senator from Massachusetts are both my good friends. I have great respect for their good faith, for their sagacity in all of these matters. But, Mr. President, it was my understanding that today we were going to have our final cloture vote and nothing seems to be happening. It seems, at least it is my view, that the requests for amendments are in sort of an expanding file; you get one and you agree to it, and then 2 or 3 days later it comes back to you as a criticism of the bill because somehow you did it wrong.

It is a complicated bill. It is not that complicated. It is fairly straightforward. Some of these four amendments were strike amendments, to

strike provisions that people disagreed with. Now, we ought to do that. We ought to say, "I ask unanimous consent that we strike this." We cannot get agreement even to strike the language that is used against us. And the reason is I think because it improves the bill and helps get toward cloture.

I hope that there is hope, but I do not share that hope.

When it comes down to the final vote, whenever that is, and this bill goes down, there will be those who say, "Oh, we were so close." I, for one, would just like to say I do not believe we are that close. To say that there are 88 ways to appeal or to attack on appeal, using that logic there are billions of ways because there is only one appeal and one standard for appeal. That is, is the final agency action arbitrary and capricious?

Now, you can use an unlimited number of arguments making sense or not making sense, but those 88 standards are not standards for appeal. They are simply things that somebody can argue. Why not make it 1,000? It is limitless what you can argue to a court. There is no limit. But there is one standard: Was the final agency action arbitrary and capricious?

That is the standard—only one—and only one appeal.

This came out of the Justice Department. They produced this long list of 88. If that is the kind of logic that we have to face from the Justice Department, there is no hope on this bill, because it defies logic. One appeal and one standard.

Mr. KERRY. Mr. President, let me just answer my friend, if I may.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. This is an example of how close but in a sense how far because the 88 standards that are here are not currently in the law. In the current law for rulemaking there is one page that describes what an agency has to do to make a rule.

You talk about what this grassroots revolution is all about in an effort to kind of get the process closer to America and less government; one page is the current law. This bill creates 66 new pages of requirements. That is more Government.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. KERRY. I would like to finish the point. I will be happy to yield for a question on that, sure.

Mr. JOHNSTON. Yes. I was going to say in the Glenn-Chafee amendment, does it not also have standards? If so, how many new standards?

Mr. KERRY. It does not have the same structure, no. It leaves discretion to the agency. It does not create 66 new pages of exactly how the rulemaking is going to take place. Let me be more precise to my friend. The struggle we are having is over a couple of words which will clarify the stated intent of the Senator from Louisiana, but not the written intent. The stated intent of

the Senator from Louisiana was accurately just portrayed. And I agree with him.

The Senator just said, "All you can do is make a judgment about the final rule as to whether or not the final rule is arbitrary and capricious." I agree with him. That is the standard we want. That is what he says he wants. That is what he says the bill does. We disagree. We believe that because of the lack of clarification in one paragraph that in fact the Senator inadvertently is opening up all of the procedural standards to review. If we will simply make clear in the text with the language we have sought that it is indeed as he says, not as to the procedure, but exclusively as to the final rule only, without regard to the procedure except as it fits into the whole record, we will solve that problem.

Now, I ask the President or anybody listening if that really sounds so unreasonable. And the problem is that every time we get to the point of saying, "Why cannot we codify your intent," we run into a stone wall. So it makes us feel, "Well, gee whiz, if we cannot codify with specificity the stated intent, which does not serve us anything when you go to court afterwards, something is wrong here."

Now, I say to my friend, he is a very good lawyer. He knows exactly what will happen. If you go to page 52, line 4, paragraph 633, there is a requirement here: The agency must use the best reasonably available scientific data and scientific understanding. If a claimant wants to come in with a good lawyer and say the agency did not use the best reasonably available scientific data, and therefore their decision was arbitrary and capricious, you have opened up each procedural section here to that kind of individual appeal.

And, in addition to that, you have procedural requirements that amount to that. All we are saying is if you do not intend each of these subsections to become the basis of that appeal, let us just say it. If we say it, we have solved our problem.

Mr. JOHNSTON. Well, Mr. President, if I may reply to that, what we intend, what we say very clearly, is that it is the final agency action that is judged by the standard of arbitrary and capricious, that the risk assessment and the cost-benefit analysis will be part of the record. And that any violations may be used solely—we use the word "solely" advisedly to determine whether that final agency action is arbitrary and capricious.

Now, the standard that the Senator just read, did you use the best science, may or may not bear on the question of the final rule being arbitrary and capricious. If it is one of these rules where the issue is the quality of the science, and if they did not use proper science, but rather subjected the American public to billions of dollars in regulation, which flies in the face of good science, then, yes, that violation could be conceivably arbitrary and capri-

cious, make the final agency action arbitrary and capricious. In most instances, it would not be.

But the very idea of having risk assessment and cost-benefit analysis is to find out what the cost is and to make the agency focus on science and use good science. Because, Mr. President, the reason I brought up risk assessment almost 2 years ago was that I found, in the committee I chaired at that time, that they were not using good science, that they were ignoring their own scientists, that they did not have the foggiest notion what the regulations were going to cost.

In one particular case, it was \$2.3 billion dealing with a nonexistent risk, and they did not know what it was going to cost. They had ignored their own scientists. Now, that goes on—not every day, not in every regulation. And, yes, we make some great progress on a lot of these environmental laws. And I voted for virtually every one.

But do not ever think, Mr. President, because the air is cleaner and the water is cleaner and all of that, that there are not great excesses in our environmental regulation system. If you just want to make it permissive, you know, say these are good employees of the Government and they are doing their job well and the air is cleaner, well, that is fine. If that is what you believe, then you know, business as usual is good. It is making progress in one sense.

I do not believe that is so, Mr. President. I think I can prove it. I think I have proven it.

Mr. KERRY. I do not disagree with what the Senator just said. But he did not in effect answer the problem that I posed. Now we have language that we have given to the Senator. The Senator has accepted one form of language, but the Justice Department tells us that we have not cured the problem we are talking about. We have given him new language which we think cures it.

Mr. JOHNSTON. What is the new language that is—

Mr. KERRY. Let me point to another kind of problem just to kind of articulate, I think, the good faith with which we are framing some of these issues. There is a rulemaking petition process. I have agreed, Senator GLENN has agreed, and Senator LEVIN has agreed that all of us think any American entity, a corporation, some kind of environmental group, that feels aggrieved by a decision ought to have some means of redress for that sense of grievance. They ought to be able to come into the agency and say, "Hey, wait a minute. This is a crazy rule. We want you to be able to review this rule."

We agree with that. I am sure most of us would say that is reasonable. We do not want Americans running around, companies or individuals, feeling as if there is no path to a legitimate review.

What we do not want, Mr. President, is an unlimited Pandora's box for gaming the system, where one company

can come in and bring a petition, then their cohort friend company could come in and bring a petition, then another company associated in the same industry but not the same could come in and bring a petition. Under the requirements of the bill—I say to my friend in the chair and others—this is not going to reduce Government. This is not going to streamline the agency process. This is not going to lift the burden of regulation. It is going to create far more gridlock than we have had before because you are going to take a fixed number of employees with a shrinking budget, give them greater responsibility to answer petitions, greater responsibility to go to court, to the judiciary, greater responsibility to do risk assessment, greater responsibility to do cost evaluation. And there will be less people to do it.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. KERRY. This is an unfunded mandate. My friend from Ohio said this: "This is the mother of all unfunded mandates."

Mr. JOHNSTON. Mr. President, if my friend will yield, I have two questions. First of all, I have not seen the judicial review language. If it has been done, there may be some progress.

Mr. KERRY. Mr. President, the problem with this is, we are trying to write one of the most complicated pieces of legislation in none of the committees to which the jurisdiction falls. The committee to which the jurisdiction fell was the Governmental Affairs Committee. They sent us the Glenn-Roth bill at the time. It came out to us 15 to 0. So we did have a bipartisan consensus about how to approach this.

Mr. JOHNSTON. Not on the Glenn-Chafee bill.

Mr. KERRY. No, not Glenn-Chafee. I said Glenn-Roth. I said Glenn-Roth. And the only change between Glenn-Roth and Glenn-Chafee, I believe fundamentally, is the fact that the sunset is out and there is a minor change or two. But the other committee, the Environment and Public Works Committee that has jurisdiction, was completely bypassed. The Judiciary Committee, as everybody knows from the report, barely had an opportunity to legislate.

Now, what did we get? We got a bill written in back rooms, cloakrooms—who knows where—offices. It comes to the floor, and now we are trying to write legislation. So it is difficult when you are weighing the impact of each of these words to do it in an afternoon, with a Whitewater hearing and a Bosnia debate and all the other meetings that we go to. It is not a question of bad faith.

Mr. JOHNSTON. Will the Senator yield.

Mr. KERRY. Let us look at the rule-making petition process. Here is what it says:

Each agency shall give an interested person the right to petition.

So we are opening up to everybody in America the right to petition.

For the issuance, amendment or repeal of a rule, for the amendment or repeal of an interpretive rule or general statement of policy or guidance, and for an interpretation regarding the meaning of a rule, interpretive rule, general statement of policy or guidance.

There are 14 different things that somebody can come in and just petition, "I want this changed."

The agency is then required to grant or deny a petition and give written notice of its determination to the petitioner with reasonable promptness but, in no event, later than 18 months afterwards.

So all of these requests could come in. You have a fixed period of time to provide the answer. You have no additional personnel to do it.

The written notice of the agency's determination will include an explanation of the determination and a response—

LEGISLATIVE BRANCH APPROPRIATIONS FOR FISCAL YEAR 1996

The Senate continued with the consideration of the bill.

VOTE ON MOTION TO TABLE AMENDMENT NO. 1803

The PRESIDING OFFICER. The hour of 2:30 having arrived, by previous order, the question occurs on agreeing to the motion to lay on the table amendment No. 1803 offered by the Senator from Wisconsin [Mr. FEINGOLD]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUE] is necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of attending a funeral.

I further announce that, if present and voting, the Senator from Delaware [Mr. BIDEN] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—41

Abraham	Faircloth	Mack
Ashcroft	Frist	McConnell
Bennett	Gorton	Murkowski
Bond	Gramm	Nickles
Burns	Grams	Packwood
Campbell	Grassley	Roth
Chafee	Gregg	Santorum
Coats	Hatch	Shelby
Cochran	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Lott	Thurmond
Dole	Lugar	

NAYS—57

Akaka	Daschle	Heflin
Baucus	Dodd	Helms
Bingaman	Domenici	Hollings
Boxer	Dorgan	Jeffords
Bradley	Exon	Johnston
Breaux	Feingold	Kassebaum
Brown	Feinstein	Kennedy
Bryan	Ford	Kerrey
Bumpers	Glenn	Kerry
Byrd	Graham	Kohl
Cohen	Harkin	Lautenberg
Conrad	Hatfield	Leahy

Levin	Nunn	Sarbanes
Lieberman	Pell	Simon
McCain	Pressler	Snowe
Mikulski	Pryor	Specter
Moseley-Braun	Reid	Thompson
Moynihan	Robb	Warner
Murray	Rockefeller	Wellstone

NOT VOTING—2

Biden	Inouye
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So, the motion to lay on the table the amendment (No. 1803) was rejected.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMPSON). Without objection, it is so ordered.

AMENDMENT NO. 1807 TO AMENDMENT NO. 1803

Mr. DOLE. Mr. President, I send a perfecting amendment to the Feingold amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1807 to amendment No. 1803.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word SEC. and insert the following: "It is the sense of the Senate that before the conclusion of the 104th Congress, comprehensive welfare reform, food stamp reform, Medicare reform, Medicaid reform, superfund reform, wetlands reform, reauthorization of the Safe Drinking Water Act, reauthorization of the Endangered Species Act, immigration reform, Davis-Bacon reform, State Department reauthorization, Defense Department reauthorization, Bosnia arms embargo, foreign aid reauthorization, fiscal year 1996 and 1997 Agriculture appropriations, Commerce, Justice, State appropriations, Defense appropriations, District of Columbia appropriations, Energy and Water Development appropriations, Foreign Operations appropriations, Interior appropriations, Labor, Health and Human Services and Education appropriations, Legislative Branch appropriations, Military Construction appropriations, Transportation appropriations, Treasury and Postal appropriations, and Veterans Affairs, Housing and Urban Development, and Independent Agencies appropriations, reauthorization of the Older Americans Act, reauthorization of the Individuals with Disabilities Education Act, health care reform, comprehensive campaign finance reform, job training reform, child support enforcement reform, tax reform, and a "Farm Bill" should be considered.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I yield to the Senator from Kentucky.

Mr. McCONNELL. Mr. President, I had earlier offered a second-degree